

Rule 354. Computation of Time**Rule 354.01 Generally**

All time periods shall be measured by starting to count on the first day after any event happens which by these rules starts the running of a time period. The last day of the time period shall be included, unless it is a:

(1) Saturday,

(2) Sunday,

(3) legal holiday, or

(4) when the act to be done is the filing of a document in court, a day on which weather or other conditions result in the closing of the office of the court administrator of the court where the action is pending, or

(5) where filing or service is either permitted or required to be made electronically, a day on which the unavailability of the computer system used by the court for electronic filing and service makes it impossible to accomplish service or filing,

in which event the period runs until the end of the next day that is not one of the aforementioned days.

(Amended effective July 1, 2015.)

Rule 354.02 Time Periods Less Than Seven Days

When any prescribed time period is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(Amended effective July 1, 2015.)

Rule 354.03 "Legal Holiday" Defined

As used in these rules, "legal holiday" means New Year's Day, Martin Luther King's Birthday, Washington's and Lincoln's Birthday (Presidents' Day), Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or Congress of the United States, by the State, or by a county, and with respect to service or filing by U.S. Mail, a day that the United States Mail does not operate.

(Amended effective June 1, 2009; amended effective July 1, 2015.)

Advisory Committee Comment

State-Level Judicial-Branch Holidays. The legal holidays listed in Rule 354.03 are based upon Minnesota Statutes 2000, section 645.44, subdivision 5, which defines state-level judicial-branch holidays. The statute further provides that when New Year's Day (January 1), Independence Day (July 4), Veteran's Day (November 11), or Christmas Day (December 25) falls on a Sunday, the following day (Monday) shall be a holiday, and that when New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on a Saturday, the preceding day (Friday) shall be a holiday. Minnesota Statutes, section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.

County Holidays. *Counties are authorized to close county offices on certain days under Minnesota Statutes 2000, section 373.052. Thus, if a county closes its offices under Minnesota Statutes, section 373.052, on a day that is not a state-level judicial-branch holiday, such as Christopher Columbus Day (the second Monday in October), the court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 354.03. See Mittelstadt v. Breider, 286 Minn. 211, 212, 175 N.W.2d 191, 192 (1970) (applying Minnesota Statutes, section 373.052, to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state-level judicial-branch holiday, such as the Friday after Thanksgiving, the court in that county must still include that day as a holiday for the purpose of computing time under Rule 354.03.*

Advisory Committee Comment - 2008 Amendment

In 2006 the Minnesota Supreme Court addressed the ambiguity in the rules and the ambiguity between the rules and statutes over how Columbus Day should be treated. Columbus Day is only optionally a state holiday (by statute the different branches can elect to treat it as a holiday) but is uniformly a federal and U.S. mail holiday. Because the rules generally allow service by mail, the Court in Commandeur LLC v. Howard Hartry, Inc., 724 N.W.2d 508 (Minn. 2006), ruled that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available. The amendment to Rule 354.03 makes it clear that Columbus Day is a "legal holiday" for all purposes in these rules, even if that is not necessarily so by the statutory definition. Minnesota Statutes 2008, section 645.44, subdivision 5.

Rule 354.04 Additional Time if Service by Mail or Service Late in Day

Whenever a person has the right or is required to do an act within a prescribed period of time after service of a notice or other document, and the notice or other document is permitted to be and is served by U.S. mail, 3 days shall be added to the prescribed time period. If service is made by any means other than by U.S. mail and accomplished after 5:00 p.m. local Minnesota time, 1 additional day shall be added to the prescribed time period.

(Amended effective July 1, 2015.)